

REMARKS

The Office Action mailed October 12, 2004, has been received and reviewed. Claims 1, 4, 6, and 8-14, in various combinations, stand rejected under the judicially created doctrine of obviousness-type double patenting and/or § 103(a) and (c). Claims 15, 16, 22 and 25 stand objected to as depending from a rejected base claim. Claims 2, 5, and 7 are allowed.

The applicants thank the Examiner for allowance of claims 2, 5, and 7.

Overcoming the rejection of claims 1, 4, 6, and 8-14 will also overcome the objection relative to claims 15, 16, 22 and 25. Hence, the terminal disclaimers submitted herewith overcome the rejection under the judicially created doctrine of obviousness-type double patenting. Under § 103(c), U.S. Patents 6,620,295, 6,217,870, and 5,922,600 were commonly owned or subject to an obligation of assignment at the time the later invention was made. Therefore, all of the pending claims should be in condition for allowance.

Specification:

The Office has asserted that the specification on page 19, line 7 and 14, incorrectly labels the SEQ ID NO. The paragraph in question has been amended to properly recite that the sequence "TTTCAA" is SEQ ID NO:3 and "GCCAAC" is SEQ ID NO:4.

Double Patenting Rejection:

Claims 1, 4, 6, and 8-14, in various combinations, stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-5 of U.S. Patent 5,922,600.

A terminal disclaimer for commonly owned U.S. Patents 5,922,600, 6,620,925, and 6,217,870 is submitted herewith. The terminal disclaimer overcomes the rejections under obviousness-type double patenting, as applied to claims 1, 4, 6, and 8-14.

Claims 1, 4, and 6-14 stand provisionally rejected under 35 U.S.C. § 103(a). The undersigned hereby affirms that the conflicting inventions, *i.e.*, claims 11 and 16 of U.S. Patent 6,620,925, claims 1, 3-7, and 9-18 of U.S. Patent 6,217,870, and claims 1-5 of U.S. Patent 5,922,600, were commonly owned or subject to an obligation of assignment at the time the

Serial No. 09/403,213
Amdt. dated February 14, 2005
Reply to the Office Action of October 12, 2004

invention in this application was made. Therefore, under 35 U.S.C. § 103(c) and 37 C.F.R. § 1.78(c), claims 1, 4, and 6-14 should now be in condition for allowance.

Claim Objections:

Claims 15, 16, 22 and 25 stand objected to as depending from a rejected base claim. The rejection of the base claims should be overcome by the terminal disclaimer and statement of common ownership. Therefore, claims 15, 16, 22 and 25 should be in condition for allowance.

CONCLUSION

Claims 1, 2, 4-16, 22 and 25 should now be in condition for allowance. Should the Office have questions after entry of the Terminal Disclaimer and consideration of the remarks and affirmation herein, the Examiner is invited to contact the applicants' representative at the number provided herein.

Respectfully submitted,



G. Scott Dorland, Ph.D.
Registration No. 51,622
Attorney for Applicants
TRASKBRITT, P.C.
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: February 14, 2005
GSD/gsd